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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 HUMBERTO CONSTANCIA, as
12 Guardian ad Litem for MATTHEW
13 CONSTANCIA, a mentally
incompetent adult,

14 Plaintiffs,

15
16 vs.

17 LOS ANGELES UNIFIED SCHOOL
18 DISTRICT, ANDRES FLORES, KATE
19 SOHN, PAUL MCKEEVER,
20 SPECIALIZED HEALTH SERVICES,
INC., dba VISTAS and DOES 1 to 100,

21 Defendants.
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Case No.: 2:17-cv-04804-SVW-SK

*[Complaint Filed: 06/30/2017;
Assigned to Hon. Stephen V. Wilson]*

**[PROPOSED] STIPULATED
PROTECTIVE ORDER**

Pretrial Conf.: 04/02/2018

Trial: 04/03/2018

1 **1. A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation may
5 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
6 enter the following Stipulated Protective Order. The parties acknowledge that this
7 Order does not confer blanket protections on all disclosures or responses to
8 discovery and that the protection it affords from public disclosure and use extends
9 only to the limited information or items that are entitled to confidential treatment
10 under the applicable legal principles. The parties further acknowledge, as set forth
11 in Section 12.3, below, that this Stipulated Protective Order does not entitle them to
12 file confidential information under seal; Civil Local Rule 79-5 sets forth the
13 procedures that must be followed and the standards that will be applied when a
14 party seeks permission from the court to file material under seal.

15 **B. GOOD CAUSE STATEMENT**

16 **[*The “Good Cause Statement” should be edited to include or exclude**
17 **specific information that applies to the particular case, i.e., what harm will**
18 **result from the disclosure of the confidential information likely to be produced**
19 **in this case? Below is an example]:**

20 This action is likely to involve trade secrets, customer and pricing lists and
21 other valuable research, development, commercial, financial, technical and/or
22 proprietary information for which special protection from public disclosure and
23 from use for any purpose other than prosecution of this action is warranted. Such
24 confidential and proprietary materials and information consist of, among other
25 things, confidential business or financial information, information regarding
26 confidential business practices, or other confidential research, development, or
27 commercial information (including information implicating privacy rights of third
28 parties), information otherwise generally unavailable to the public, or which may be

1 privileged or otherwise protected from disclosure under state or federal statutes,
2 court rules, case decisions, or common law. Accordingly, to expedite the flow of
3 information, to facilitate the prompt resolution of disputes over confidentiality of
4 discovery materials, to adequately protect information the parties are entitled to
5 keep confidential, to ensure that the parties are permitted reasonable necessary uses
6 of such material in preparation for and in the conduct of trial, to address their
7 handling at the end of the litigation, and serve the ends of justice, a protective order
8 for such information is justified in this matter. It is the intent of the parties that
9 information will not be designated as confidential for tactical reasons and that
10 nothing be so designated without a good faith belief that it has been maintained in a
11 confidential, non-public manner, and there is good cause why it should not be part
12 of the public record of this case.

13 14 **2. DEFINITIONS**

15 2.1. Action: [this pending federal law suit]. [*Option: consolidated or
16 related actions.]

17 2.2. Challenging Party: a Party or Non-Party that challenges the
18 designation of information or items under this Order.

19 2.3. “CONFIDENTIAL” Information or Items: information (regardless of
20 how it is generated, stored or maintained) or tangible things that qualify for
21 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
22 the Good Cause Statement.

23 2.4. Counsel: Outside Counsel of Record and House Counsel (as well as
24 their support staff).

25 2.5. Designating Party: a Party or Non-Party that designates information or
26 items that it produces in disclosures or in responses to discovery as
27 “CONFIDENTIAL.”
28

1 2.6. Disclosure or Discovery Material: all items or information, regardless
2 of the medium or manner in which it is generated, stored, or maintained (including,
3 among other things, testimony, transcripts, and tangible things), that are produced
4 or generated in disclosures or responses to discovery in this matter.

5 2.7. Expert: a person with specialized knowledge or experience in a matter
6 pertinent to the litigation who has been retained by a Party or its counsel to serve as
7 an expert witness or as a consultant in this Action.

8 2.8. House Counsel: attorneys who are employees of a party to this Action.
9 House Counsel does not include Outside Counsel of Record or any other outside
10 counsel.

11 2.9. Non-Party: any natural person, partnership, corporation, association, or
12 other legal entity not named as a Party to this action.

13 2.10. Outside Counsel of Record: attorneys who are not employees of a
14 party to this Action but are retained to represent or advise a party to this Action and
15 have appeared in this Action on behalf of that party or are affiliated with a law firm
16 which has appeared on behalf of that party, and includes support staff.

17 2.11. Party: any party to this Action, including all of its officers, directors,
18 employees, consultants, retained experts, and Outside Counsel of Record (and their
19 support staffs).

20 2.12. Producing Party: a Party or Non-Party that produces Disclosure or
21 Discovery Material in this Action.

22 2.13. Professional Vendors: persons or entities that provide litigation
23 support services (e.g., photocopying, videotaping, translating, preparing exhibits or
24 demonstrations, and organizing, storing, or retrieving data in any form or medium)
25 and their employees and subcontractors.

26 2.14. Protected Material: any Disclosure or Discovery Material that is
27 designated as "CONFIDENTIAL."
28

1 2.15. Receiving Party: a Party that receives Disclosure or Discovery
2 Material from a Producing Party.

3
4 **3. SCOPE**

5 The protections conferred by this Stipulation and Order cover not only
6 Protected Material (as defined above), but also (1) any information copied or
7 extracted from Protected Material; (2) all copies, excerpts, summaries, or
8 compilations of Protected Material; and (3) any testimony, conversations, or
9 presentations by Parties or their Counsel that might reveal Protected Material.

10 Any use of Protected Material at trial shall be governed by the orders of the
11 trial judge. This Order does not govern the use of Protected Material at trial.

12
13 **4. DURATION**

14 **[ONE POSSIBLE PARAGRAPH]** Once a case proceeds to trial, all of the
15 information that was designated as confidential or maintained pursuant to this
16 protective order becomes public and will be presumptively available to all members
17 of the public, including the press, unless compelling reasons supported by specific
18 factual findings to proceed otherwise are made to the trial judge in advance of the
19 trial. See *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1180-81 (9th
20 Cir. 2006) (distinguishing “good cause” showing for sealing documents produced
21 in discovery from “compelling reasons” standard when merits-related documents
22 are part of court record). Accordingly, the terms of this protective order do not
23 extend beyond the commencement of the trial.

24 **[ALTERNATIVE POSSIBLE PARAGRAPH]** Even after final disposition
25 of this litigation, the confidentiality obligations imposed by this Order shall remain
26 in effect until a Designating Party agrees otherwise in writing or a court order
27 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal
28 of all claims and defenses in this Action, with or without prejudice; and (2) final

1 judgment herein after the completion and exhaustion of all appeals, rehearings,
2 remands, trials, or reviews of this Action, including the time limits for filing any
3 motions or applications for extension of time pursuant to applicable law.

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5 **5. DESIGNATING PROTECTED MATERIAL**

6 5.1. Exercise of Restraint and Care in Designating Material for Protection.

7 Each Party or Non-Party that designates information or items for protection under
8 this Order must take care to limit any such designation to specific material that
9 qualifies under the appropriate standards. The Designating Party must designate for
10 protection only those parts of material, documents, items, or oral or written
11 communications that qualify so that other portions of the material, documents,
12 items, or communications for which protection is not warranted are not swept
13 unjustifiably within the ambit of this Order.

14 Mass, indiscriminate, or routinized designations are prohibited. Designations
15 that are shown to be clearly unjustified or that have been made for an improper
16 purpose (e.g., to unnecessarily encumber the case development process or to
17 impose unnecessary expenses and burdens on other parties) may expose the
18 Designating Party to sanctions.

19 If it comes to a Designating Party's attention that information or items that it
20 designated for protection do not qualify for protection, Designating Party must
21 promptly notify all other Parties that it is withdrawing the inapplicable designation.

22 5.2. Manner and Timing of Designations. Except as otherwise provided in
23 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
24 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
25 under this Order must be clearly so designated before the material is disclosed or
26 produced.

27 Designation in conformity with this Order requires:
28

1 (a) for information in documentary form (e.g., paper or electronic
2 documents, but excluding transcripts of depositions or other pretrial or trial
3 proceedings), that the Producing Party affix at a minimum, the legend
4 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
5 contains protected material. If only a portion or portions of the material on a page
6 qualifies for protection, the Producing Party also must clearly identify the protected
7 portion(s) (e.g., by making appropriate markings in the margins).

8 A Party or Non-Party that makes original documents available for inspection
9 need not designate them for protection until after the inspecting Party has indicated
10 which documents it would like copied and produced. During the inspection and
11 before the designation, all of the material made available for inspection shall be
12 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
13 documents it wants copied and produced, the Producing Party must determine
14 which documents, or portions thereof, qualify for protection under this Order.
15 Then, before producing the specified documents, the Producing Party must affix the
16 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
17 portion or portions of the material on a page qualifies for protection, the Producing
18 Party also must clearly identify the protected portion(s) (e.g., by making
19 appropriate markings in the margins).

20 (b) for testimony given in depositions that the Designating Party identifies
21 the Disclosure or Discovery Material on the record, before the close of the
22 deposition all protected testimony.

23 (c) for information produced in some form other than documentary and
24 for any other tangible items, that the Producing Party affix in a prominent place on
25 the exterior of the container or containers in which the information is stored the
26 legend “CONFIDENTIAL.” If only a portion or portions of the information
27 warrants protection, the Producing Party, to the extent practicable, shall identify the
28 protected portion(s).

1 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent
2 failure to designate qualified information or items does not, standing alone, waive
3 the Designating Party's right to secure protection under this Order for such
4 material. Upon timely correction of a designation, the Receiving Party must make
5 reasonable efforts to assure that the material is treated in accordance with the
6 provisions of this Order.

7 8 **6. CHALLENGING CONFIDENTIALITY DESIGNATION**

9 6.1. Timing of Challenges. Any Party or Non-Party may challenge a
10 designation of confidentiality at any time that is consistent with the Court's
11 Scheduling Order.

12 6.2. Meet and Confer. The Challenging Party shall initiate the dispute
13 resolution process under Local Rule 37.1, *et seq.*

14 6.3. The burden of persuasion in any such challenge proceeding shall be on
15 the Designating Party. Frivolous challenges, and those made for an improper
16 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
17 parties) may expose the Challenging Party to sanctions. Unless the Designating
18 Party has waived or withdrawn the confidentiality designation, all parties shall
19 continue to afford the material in question the level of protection to which it is
20 entitled under the Producing Party's designation until the Court rules on the
21 challenge.

22 23 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

24 7.1. Basic Principles. A Receiving Party may use Protected Material that is
25 disclosed or produced by another Party or by a Non-Party in connection with this
26 Action only for prosecuting, defending, or attempting to settle this Action. Such
27 Protected Material may be disclosed only to the categories of persons and under the
28 conditions described in this Order. When the Action has been terminated, a

1 Receiving Party must comply with the provisions of section 13 below (FINAL
2 DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a
4 location and in a secure manner that ensures that access is limited to the persons
5 authorized under this Order.

6 7.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless
7 otherwise ordered by the court or permitted in writing by the Designating Party, a
8 Receiving Party may disclose any information or item designated
9 “CONFIDENTIAL” only to:

10 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
11 well as employees of said Outside Counsel of Record to whom it is reasonably
12 necessary to disclose the information for this Action;

13 (b) the officers, directors, and employees (including House Counsel) of
14 the Receiving Party to whom disclosure is reasonably necessary for this Action;

15 (c) Experts (as defined in this Order) of the Receiving Party to whom
16 disclosure is reasonably necessary for this Action and who have signed the
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (d) the court and its personnel;

19 (e) court reporters and their staff;

20 (f) professional jury or trial consultants, mock jurors, and Professional
21 Vendors to whom disclosure is reasonably necessary for this Action and who have
22 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

23 (g) the author or recipient of a document containing the information or a
24 custodian or other person who otherwise possessed or knew the information;

25 (h) during their depositions, witnesses ,and attorneys for witnesses, in the
26 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
27 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they
28 will not be permitted to keep any confidential information unless they sign

1 the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
2 agreed by the Designating Party or ordered by the court. Pages of transcribed
3 deposition testimony or exhibits to depositions that reveal Protected Material may
4 be separately bound by the court reporter and may not be disclosed to anyone
5 except as permitted under this Stipulated Protective Order; and

6 (i) any mediator or settlement officer, and their supporting personnel,
7 mutually agreed upon by any of the parties engaged in settlement discussions.
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9 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**
10 **PRODUCED IN OTHER LITIGATION**

11 If a Party is served with a subpoena or a court order issued in other litigation
12 that compels disclosure of any information or items designated in this Action as
13 “CONFIDENTIAL,” that Party must:

14 (a) promptly notify in writing the Designating Party. Such notification
15 shall include a copy of the subpoena or court order;

16 (b) promptly notify in writing the party who caused the subpoena or order
17 to issue in the other litigation that some or all of the material covered by the
18 subpoena or order is subject to this Protective Order. Such notification shall include
19 a copy of this Stipulated Protective Order; and

20 (c) cooperate with respect to all reasonable procedures sought to be
21 pursued by the Designating Party whose Protected Material may be affected.

22 If the Designating Party timely seeks a protective order, the Party served with
23 the subpoena or court order shall not produce any information designated in this
24 action as “CONFIDENTIAL” before a determination by the court from which the
25 subpoena or order issued, unless the Party has obtained the Designating Party’s
26 permission. The Designating Party shall bear the burden and expense of seeking
27 protection in that court of its confidential material and nothing in these provisions
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1 should be construed as authorizing or encouraging a Receiving Party in this Action
2 to disobey a lawful directive from another court.

3
4 **9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
5 **PRODUCED IN THIS LITIGATION**

6 (a) The terms of this Order are applicable to information produced by a
7 Non-Party in this Action and designated as "CONFIDENTIAL." Such information
8 produced by Non-Parties in connection with this litigation is protected by the
9 remedies and relief provided by this Order. Nothing in these provisions should be
10 construed as prohibiting a Non-Party from seeking additional protections.

11 (b) In the event that a Party is required, by a valid discovery request, to
12 produce a Non-Party's confidential information in its possession, and the Party is
13 subject to an agreement with the Non-Party not to produce the Non-Party's
14 confidential information, then the Party shall:

15 (1) promptly notify in writing the Requesting Party and the Non-
16 Party that some or all of the information requested is subject to a confidentiality
17 agreement with a Non-Party;

18 (2) promptly provide the Non-Party with a copy of the Stipulated
19 Protective Order in this Action, the relevant discovery request(s), and a reasonably
20 specific description of the information requested; and

21 (3) make the information requested available for inspection by the
22 Non-Party, if requested.

23 (c) If the Non-Party fails to seek a protective order from this court within
24 14 days of receiving the notice and accompanying information, the Receiving Party
25 may produce the Non-Party's confidential information responsive to the discovery
26 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
27 not produce any information in its possession or control that is subject to the
28 confidentiality agreement with the Non-Party before a determination by the court.

Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

1 12.1. Right to Further Relief. Nothing in this Order abridges the right of any
2 person to seek its modification by the Court in the future.

3 12.2. Right to Assert Other Objections. By stipulating to the entry of this
4 Protective Order no Party waives any right it otherwise would have to object to
5 disclosing or producing any information or item on any ground not addressed in
6 this Stipulated Protective Order. Similarly, no Party waives any right to object on
7 any ground to use in evidence of any of the material covered by this Protective
8 Order.

9 12.3. Filing Protected Material. A Party that seeks to file under seal any
10 Protected Material must comply with Civil Local Rule 79-5. Protected Material
11 may only be filed under seal pursuant to a court order authorizing the sealing of the
12 specific Protected Material at issue. If a Party's request to file Protected Material
13 under seal is denied by the court, then the Receiving Party may file the information
14 in the public record unless otherwise instructed by the court.

15
16 **13. FINAL DISPOSITION**

17 After the final disposition of this Action, as defined in paragraph 4, within 60
18 days of a written request by the Designating Party, each Receiving Party must
19 return all Protected Material to the Producing Party or destroy such material. As
20 used in this subdivision, "all Protected Material" includes all copies, abstracts,
21 compilations, summaries, and any other format reproducing or capturing any of the
22 Protected Material. Whether the Protected Material is returned or destroyed, the
23 Receiving Party must submit a written certification to the Producing Party (and, if
24 not the same person or entity, to the Designating Party) by the 60 day deadline that
25 (1) identifies (by category, where appropriate) all the Protected Material that was
26 returned or destroyed and (2) affirms that the Receiving Party has not retained any
27 copies, abstracts, compilations, summaries or any other format reproducing or
28 capturing any of the Protected Material. Notwithstanding this provision, Counsel

1 are entitled to retain an archival copy of all pleadings, motion papers, trial,
2 deposition, and hearing transcripts, legal memoranda, correspondence, deposition
3 and trial exhibits, expert reports, attorney work product, and consultant and expert
4 work product, even if such materials contain Protected Material. Any such archival
5 copies that contain or constitute Protected Material remain subject to this Protective
6 Order as set forth in Section 4 (DURATION).

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8 **14.** Any violation of this Order may be punished by any and all appropriate
9 measures including, without limitation, contempt proceedings and/or monetary
10 sanctions.

11
12 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

13
14 Dated: January 22, 2018

ALBRIGHT, YEE & SCHMIT, APC

15
16 By: /s/ Delia Ibarra.

Delia Ibarra

17 Attorneys for Defendant

18 **LOS ANGELES UNIFIED SCHOOL**
19 **DISTRICT, ANDRES FLORES,**
20 **KATE SOHN and PAUL McKEEVER**

21 Dated: January 22, 2018

LAW OFFICE OF PAUL W. WONG

22 By: /s/ Paul W. Wong.

Paul W. Wong

23 Attorneys for Plaintiff

24 **HUMBERTO CONSTANCIA, as**
25 **Guardian ad Litem for MATTHEW**
26 **CONSTANCIA, a mentally**
27 **incompetent adult**

28 (Signatures continued on next page)

1 Dated: January 22, 2018

**LAW OFFICE OF GARY S.
CASSELMAN**

2
3 By: /s/ Gary Steven Casselman

4 Gary Steven Casselman
5 Attorneys for Plaintiff
6 **HUMBERTO CONSTANCIA, as**
7 **Guardian ad Litem for MATTHEW**
8 **CONSTANCIA, a mentally**
9 **incompetent adult**

10 Dated: January 22, 2018

**BEACH, COWDREY & JENKINS
LLP**

11 By: /s/ Varouj Arabian

12 Varouj Arabian
13 Attorneys for Defendant
14 **SPECIALIZED HEALTH SERVICES,**
15 **INC. dba VISTAS**

16 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

17 DATED: January 22, 2018

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19 Honorable Steve Kim
20 United States Magistrate Judge
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